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SUBCHAPTER 6. CONDITIONS APPLICABLE TO ALL NJPDES PERMITS

7:14A-6.1 PURPOSE AND SCOPE

- (a) This subchapter sets forth the minimal conditions which apply to all NJPDES permits unless the permit or fact sheet as described in N.J.A.C. 7:14A-15.8 specifically includes an exemption from one or more of these required conditions.
- (b) The Department shall incorporate all permit conditions either expressly or by reference in the permit. A permit that incorporates conditions by reference shall contain citations to the specific applicable rule section(s).

7:14A-6.2 GENERAL CONDITIONS APPLICABLE TO ALL PERMITTEES

- (a) The following conditions apply to all NJPDES permits issued by the Department unless specifically exempted in the permit:
 - 1. A permittee shall comply with all the conditions of the NJPDES permit.
 - 2. The discharge of any pollutant not specifically regulated in the NJPDES permit or listed and quantified in the NJPDES application or request for authorization shall constitute a violation of the permit, unless the permittee can prove by clear and convincing evidence that the discharge of the unauthorized pollutant did not result from any of the permittee's activities which contribute to the generation of its wastewater;
 - 3. A permittee shall not attain any concentration limitation by dilution. (For example, no permittee shall increase the use of process water or cooling water or otherwise attempt to dilute a discharge as a partial or complete substitute for adequate treatment to attain permit limitations or water quality standards);
 - 4. Even if the permit has not yet been modified to incorporate the requirement, a permittee shall comply with the following within the time provided in the specified regulations that establish the following:
 - i. Applicable effluent standards or prohibitions established under Section 307(a) and (c) of the Federal Act for toxic pollutants; and
 - ii. Standards for sewage sludge use or disposal established under Section 405(d) of the Federal Act and N.J.A.C. 7:14A-20;
 - 5. A permittee shall take all reasonable steps to minimize or prevent any activity in violation of its permit which has a reasonable likelihood of adversely affecting human health or the environment;

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6. A permit shall not convey any property rights of any sort or any exclusive privilege;
7. A permit shall not authorize any injury to persons or property or invasion of other private rights, or any infringement of Federal, State or local law or regulations.
8. A permit is not transferable to any person except after written notice in accordance with N.J.A.C. 7:14A-16.2;
9. All permittees with discharges that flow through an outfall pipe, unless such outfall pipe is completely and continuously submerged, or is not assigned a Discharge Serial Number (DSN), shall notify the Department that a tag to mark the location of the pipe has been or will be installed on the pipe by the effective date of the permit, or by May 5, 1998, whichever is sooner.
 - i. The outfall tag shall be:
 - (1) Legible;
 - (2) Located as near to the end of the outfall pipe as possible;
 - (3) Made of a durable material such as metal; and
 - (4) Maintained on a regular basis, such as cleaned and inspected to ensure that the tag is properly attached.
 - ii. The outfall tag shall display, at a minimum, the following information:
 - (1) The name of the facility where the discharge originates;
 - (2) The NJPDES permit number;
 - (3) The NJDEP Hotline phone number; and
 - (4) The Discharge Serial Number for that particular outfall;
10. When the Department reopens the permit by modification or revocation and reissuance, it shall do so, at a minimum, for the following:
 - i. Any discharger within a primary industrial category, as listed in N.J.A.C. 7:14A-4 Appendix A, Table 1, if an applicable standard or limitation is promulgated under Sections 301(b)(2) (C) and (D), 302, 304(b)(2), or 307(a), (b),(c) and (d) of the Federal Act and that effluent standard or limitation is more stringent than any effluent limitation in the permit or controls a pollutant or pollutant parameter

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not limited in the permit;

- ii. Any permit issued to a treatment works treating domestic sewage or residual-only facilities, to incorporate any applicable standard for residual use or disposal promulgated under section 405 (d) of the Federal Act or N.J.A.C. 7:14A-20, and the standard for residual use or disposal is more stringent than any requirements for residual use or disposal in the permit, or controls a pollutant or practice not limited in the permit; or
 - iii. All dischargers, to incorporate any applicable effluent standard or any effluent limitation, including any effluent standards or effluent limitations to control the discharge of any toxic pollutants or pollutant parameters such as acute or chronic whole effluent toxicity, or chemical specific toxic parameters, requirements related to toxicity reduction or to implement a TMDL or watershed management plan adopted in accordance with N.J.A.C. 7:15-7, when the effluent standard or limitation is more stringent than any effluent limitation in the permit or controls a pollutant or pollutant parameter not limited in the permit;
 - iv. DTWs, to incorporate the applicable pretreatment program conditions as approved by the Department.
- 11. The permittee shall take such corrective actions as required under the Federal and State Acts, and other relevant provisions of law, including, at a minimum, accelerated and/or additional types of monitoring, temporary repairs, ceasing discharge, or where ceasing discharge is not possible, other measures to mitigate the effects of violating its NJPDES permit.
 - 12. If a permittee wishes to continue an activity regulated by a NJPDES permit after the expiration date of the permit, the permittee must comply with the reapplication procedures listed in N.J.A.C. 7:14A-4.
 - 13. All permittees must comply with the noncompliance reporting requirements of N.J.A.C. 7:14A-6.10 for any noncomplying discharge listed in N.J.A.C. 7:14A-6.10(a); and
 - 14. A permittee shall furnish to the Department, within a reasonable timeframe specified by the Department, any information which the Department may request to determine whether cause exists for issuing, modifying, revoking and reissuing, or revoking a discharge permit, or to determine compliance with a NJPDES permit. The permittee shall also furnish to the Department, upon request, copies of records required to be kept by the permit.

(b) When applicable, NJPDES-DSW permits shall include the following

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conditions:

1. Implementation of Best Management Practices to control or abate the discharge of pollutants, when:
 - i. Authorized under Section 304(e) of the Federal Act (33 U.S.C. § 1314(e)) for the control of toxic pollutants and hazardous substances from ancillary industrial activities;
 - ii. Authorized under Section 402(p) of the Federal Act (33 U.S.C. § 1342(p)) or under the State Act for the control of stormwater discharges;
 - iii. Numeric effluent limitations are infeasible; or
 - iv. The practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the State and Federal Acts;
2. For existing manufacturing, commercial, mining, and silvicultural discharges and research facilities, a notification level different from the notification level of N.J.A.C. 7:14A-11.3(a)1, upon a petition from the permittee or on the Department's initiative. A notification level established pursuant to this paragraph will not exceed the level which can be achieved by the technology-based treatment requirements appropriate to the permittee under 40 CFR 125.3(c); and
3. Any conditions imposed in grants or loans made to DTWs by the Administrator under Sections 201 and 204 of the Federal Act or by the Department which are reasonably necessary for the achievement of any conditions of the permit.

7:14A-6.3 ESTABLISHING PERMIT CONDITIONS

- (a) In addition to conditions required in all permits for all programs pursuant to N.J.A.C. 7:14A-6.2, the Department shall establish conditions in permits for the individual programs, as required on a case-by-case basis.
- (b) All NJPDES permits shall include any applicable Federal or State statutory or regulatory requirements which take effect prior to final permit issuance. N.J.A.C. 7:14A-15.14, Reopening of the public comment period, provides a means for reopening NJPDES permit proceedings at the discretion of the Department where new requirements become effective during the permitting process and are of sufficient magnitude to make additional proceedings desirable. An applicable requirement is also any requirement which takes effect prior to the modification or revocation and reissuance of a permit, to the extent allowed in N.J.A.C. 7:14A-16.4.

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7:14A-6.4 SCHEDULES OF COMPLIANCE

- (a) The Department shall, when appropriate, specify in the permit a schedule of compliance, including interim deadlines for progress or reports of progress towards compliance with the State and Federal Acts and all other applicable authority for this chapter.
 - 1. The first NJPDES permit issued to a new source or a new discharger shall contain a schedule of compliance only when necessary to allow a reasonable opportunity to attain compliance with requirements issued or revised after commencement of construction but less than three years before commencement of the relevant discharge. For dischargers with a discharge that has been suspended for an extended period during which the submittal of DMRs has also been suspended, a schedule of compliance shall be included as part of the permit or conditions for recommencement only when necessary to allow a reasonable opportunity to attain compliance with requirements issued or revised less than three years before recommencement of the discharge.
 - 2. Except as provided in (b)1(ii) below, if a permit establishes a schedule of compliance which exceeds one year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement.
 - i. The time between interim dates shall not exceed one year except that in the case of a schedule for compliance with standards for sewage sludge use or disposal, the time between interim dates shall not exceed six months.
 - ii. If the time necessary for completion of any interim requirement (such as the construction of a control facility) is more than one year and is not readily divisible into stages for completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.
 - 3. No later than 14 days following each interim date or final date of compliance, the permittee shall provide written notice to the Department of its compliance or noncompliance with interim or final requirements, or submit progress reports if (a)2ii above is applicable.
- (b) A permittee may cease conducting regulated activities rather than continue to operate and meet permit requirements as follows:
 - 1. If the permittee decides to cease conducting regulated activities at a given time within the term of a permit which has already been issued:

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- i. The permit may be modified pursuant to N.J.A.C. 7:14A-16.4, to contain a new or additional schedule leading to timely cessation of activities; or
 - ii. The permittee shall cease conducting permitted activities before noncompliance with any interim or final compliance requirement already specified in the permit.
 2. If the decision to cease conducting regulated activities is made before issuance of a permit whose term shall include the expiration date, the permit shall contain a schedule leading to expiration which shall ensure compliance no later than any applicable statutory deadline.
 3. If the permittee is undecided as to whether it will cease conducting regulated activities, the Department shall either issue or modify a permit to contain two schedules:
 - i. One schedule shall lead to timely compliance with all applicable requirements, no later than the statutory deadline;
 - ii. The second schedule shall lead to cessation of regulated activities by a date which shall ensure timely compliance with all applicable requirements;
 - iii. Both schedules shall contain an identical interim deadline requiring a final decision as to whether the permittee will cease conducting regulated activities. A decision by the permittee to continue conducting regulated activities shall be made by a date which ensures sufficient time to comply in a timely manner with all applicable requirements;
 - iv. Each permit containing two schedules shall include a requirement that the permittee, after making a final decision under (b)3iii above, shall follow the schedule leading to compliance if the decision is to continue conducting regulated activities, and shall follow the schedule leading to expiration if the decision is to cease conducting regulated activities.
 4. The permittee's decision to cease conducting regulated activities shall be evidenced by a firm public commitment satisfactory to the Department, such as a resolution of the board of directors of a corporation.
- (c) A POTW required to develop a pretreatment program shall have a pretreatment program compliance schedule based on the dates established in a written notification from the Department. This compliance schedule shall be incorporated into the NJPDES permit at the time of issuance, reissuance or modification of the permit. The compliance schedule shall require the

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development and submission of a pretreatment program developed in accordance with N.J.A.C. 7:14A-19 as soon as possible, but in no case later than one year after the receipt of written notification from the Department.

- (d) Any schedules of compliance under this section shall require compliance as soon as possible, but no later than any applicable statutory deadline.
- (e) The permittee shall meet schedules for compliance with the terms of the permit and interim deadlines for progress or reports of progress towards compliance. Reports of compliance or noncompliance with, or any progress reports on, the interim and final requirements contained in any compliance schedule of a permit shall be submitted no later than 14 days following each scheduled date, and may be submitted with the DMRs in accordance with N.J.A.C. 7:14A-6.8(a).

7:14A-6.5 MONITORING

- (a) Monitoring requirements are as follows:

- 1. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- 2. The permittee shall perform all analyses in accordance with the analytical test procedures specified in 40 C.F.R. 136 or, in the case of residual use or disposal, in 40 C.F.R. 136 unless otherwise specified in 40 C.F.R. 503, or unless other test procedures have been specified in the permit. Where no approved test procedure is available, the permittee shall indicate a suitable analytical procedure and shall provide the Department with literature references or a detailed description of the procedure. The Department shall determine the appropriate procedure and require that procedure in the NJPDES permit. The laboratory performing the analyses shall be certified by the Department for the analysis of those specific parameters in accordance with N.J.A.C. 7:18. Information concerning laboratory approval and/or certification may be obtained from:

New Jersey Department of Environmental Protection
Office of Quality Assurance
PO Box 424
Trenton, New Jersey 08625-0424
(609) 292-3950

- (b) All permittees shall:

- 1. Properly install, use, and maintain monitoring equipment and use proper monitoring methods (including biological monitoring methods when appropriate);
- 2. Properly monitor the discharge in accordance with the monitoring type,

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interval, and frequency as specified in the permit;

- i. Certain discharges of non-contact cooling water shall be exempt from monitoring, unless specifically required by the Department, where the applicant's activities do not affect the following constituents: COD, BOD, TSS, pH, and/or settleable solids.
 - ii. Bacterial monitoring shall not be required for facilities which do not receive wastewater containing pathogenic organisms, including fecal coliform or enterococci organisms, unless otherwise required by the Department. Discharge permits shall contain a monitoring-only requirement for enterococci organisms, unless the Department determines that it is appropriate to require enterococci effluent limitations and publishes a public notice in the New Jersey Register with supporting reasons to this effect;
 3. Comply with the reporting requirements specified in the permit; and
 4. Monitor in accordance with the edition of the Department's "Field Sampling Procedures Manual" applicable at the time of sampling or an alternate method approved by the Department.
- (b) If the Department has reason to believe that the accuracy and/or precision of one or more analyses is inadequate to provide a reasonable estimate of effluent quality, the Department shall, upon written notification, require any facility that analyzes its effluent samples at a laboratory it directly or indirectly owns, operates or manages to annually have one of its permit-required periodic sampling analyses performed by a certified laboratory which is not owned operated or managed by the permittee. This shall be broadly construed to include all the sample analyses that are to be performed during the course of routine hourly, daily, monthly, quarterly, semi-annual, or annual sampling.
- (d) Requirements for automatically adjusting effluent monitoring frequency are as follows:
1. Any permittee shall automatically adjust its effluent monitoring and reporting frequency to monthly when the permittee:
 - i. Reports effluent values that would make the permittee a serious violator for one or more parameters for which the permittee is required to report less frequently than monthly. Monthly reporting is only required for parameters with serious violations. (However, NJPDES-SIU permittees shall resample within 30 days of becoming aware of any violation if required by 40 C.F.R. Part 403); or
 - ii. Fails to submit a completed Discharge Monitoring Report (DMR).

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2. The monthly reporting required by (d)1 above shall begin the first month after the submission of the DMR or the month in which the permittee was required to submit the completed DMR or the Baseline Report (BR) to the Department which results in the permittee becoming a serious violator. If the Department grants an affirmative defense pursuant to N.J.A.C. 7:14-8.3(i) for an effluent violation, the violation shall not be considered a serious violation and shall not be subject to monthly reporting under (d)1 above.
3. Any permittee required to adjust its monitoring and reporting pursuant to (d)1 above shall continue this monthly schedule until the permittee has submitted six consecutive monthly Discharge Monitoring Reports which show compliance with the particular serious violation parameter at the particular discharge point, at which time the permittee may resume the original schedule in its permit.

7:14A-6.6 RECORDKEEPING

- (a) A person shall retain records of all monitoring information including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by a NJPDES permit, records of all data used to complete the application for a NJPDES permit, and records of monitoring information required by the permit related to the permittee's residual use and/or disposal practices for a period of at least five years, or longer as required by N.J.A.C. 7:14A-20, from the date of the sample, measurement, report, application, or record. The Department may at any time, extend this period through a written notice, and require that a person retain all records listed above for a period longer than five years for, at a minimum, any of the following reasons:
 1. Enforcement action;
 2. Litigation; and
 3. Water quality studies.
- (b) Records of monitoring information shall include:
 1. The date, exact place, and time of sampling or measurements;
 2. The individual(s) who performed the sampling or measurements;
 3. The date(s) analyses were performed;
 4. The individual(s) who performed the analyses;
 5. The analytical techniques or methods used; and

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6. The results of such analyses.

7:14A-6.7 NOTICE REQUIREMENTS FOR FACILITY ALTERATIONS AND ADDITIONS

- (a) All permittees shall give written notice to the Department of any planned physical alterations or additions to the permitted facility which meet the criteria in (b) below, or as soon as possible.
- (b) Notice is required only when:
 1. The alteration or addition to a permitted facility meets one of the criteria for determining whether a facility is a new source as defined in N.J.A.C. 7:14A-1.2;
 2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged;
 3. The alteration or addition is expected to result in a significant change in the permittee's residual use or disposal practices, and such alterations, additions, or changes may justify the application of permit conditions that are different from or absent in the existing permit. This includes notification of additional use or disposal sites not reported during the permit application process; or
 4. The planned alterations or changes in the permitted facility or activity may result in noncompliance with permit requirements.
- (c) Fulfillment of these notice requirements does not relieve the applicant of the responsibility to obtain any applicable approvals or permits.

7:14A-6.8 REPORTING MONITORING RESULTS

- (a) The permittee shall report monitoring results on the Discharge Monitoring Reports (DMR) and/or the Baseline Reports (BR) or other monitoring report forms required by the permit or the Department at the intervals specified in the permit.
- (b) All permittees with effluent limits expressed as daily maxima or minima without a monthly average for a particular parameter shall report, in addition to all other applicable reporting requirements, the average value obtained during the reporting month. However, for pH and WET, the reporting requirements of the permit shall govern.
- (c) Any permittee required to adjust its effluent monitoring to monthly under N.J.A.C. 7:14A-6.5(d) shall also automatically adjust its reporting frequency to monthly.
- (d) Upon written notice from the Department, monitoring results may be

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submitted to the Department electronically, provided the data is submitted in accordance with the standards for information exchange detailed in the Department's Manual for Information Management, "Guidance Document for Electronic Reporting of Environmental Data," August 1995 (see data dictionary and file format), as may be amended and supplemented. However, the permittee shall continue to submit signed transmittal forms.

- (e) All monitoring requirements of the permit are minimum requirements. However, if a permittee monitors any pollutant more frequently than required by the permit in accordance with the permit requirements for sample type, location, and analysis and using test procedures approved under 40 C.F.R. 136 or, in the case of residual use or disposal, approved under 40 C.F.R. 136, unless otherwise specified in 40 C.F.R. 503 or as specified in the permit, the results of this monitoring shall be included in the calculation and reported on the form specified by the Department.
- (f) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in the permit by the Department.
- (g) When subject to limitations based on a measure of production, the permittee shall submit with the report the level of production that actually occurred during the reporting month and the limitations, standards, or prohibitions applicable to that level of production.
- (h) The permittee shall report all instances of noncompliance not reported under N.J.A.C. 7:14A-6.10 at the time DMRs are submitted. The reports shall contain the information required in the written submission listed in N.J.A.C. 7:14A-6.10(e) if not already submitted to the Department.
- (i) All SIUs, DSW major industrial facilities, DGWs, and DSW local agencies, other than those discharging only stormwater or non-contact cooling water, required to submit DMRs to the Department shall submit the required reporting forms to the Department on a monthly basis when sampling is required on a monthly basis for one or more parameters. Reporting is required on a monthly basis for all those parameters that are required to be monitored during that particular month.

7:14A-6.9 SIGNATORY REQUIREMENTS FOR DMR AND BR

- (a) All DMRs and the BRs shall be signed by the highest ranking official having day-to-day managerial and operational responsibilities for the discharging facility, whose responsibilities usually include authorizing capital expenditures and/or hiring personnel.
 - 1. For private entities this will usually be a person identified in N.J.A.C. 7:14A-4.9(a)1; and
 - 2. For public entities it will usually be a plant manager or plant operator, an

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executive director of a public authority, or a ranking elected official.

- (b) The following certification shall be made by the above described official and shall accompany the report:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and/or imprisonment."

- (c) The above described official may authorize another responsible high ranking official to sign the DMR in his or her absence. Authorizations for other individuals to sign in accordance with this subsection shall be made in accordance with N.J.A.C. 7:14A-4.9(b).
- (d) The highest ranking official shall be liable in all instances for the accuracy of all of the information provided in the report. However, the highest ranking official may file within seven days of his or her return, amendments to the report to which he or she was not a signatory. The filing of amendments to a monitoring report in accordance with this subsection shall not be considered a late filing of a report for the purposes of N.J.A.C. 7:14A-6.8, or for the purposes of determining a significant noncomplier.

7:14A-6.10 NONCOMPLIANCE REPORTING.

- (a) All permittees shall report to the Department (and receiving DTW, if applicable) any noncompliance including, but not limited to:
1. Any exceedance of effluent limitation that:
 - i. Causes injury to persons;
 - ii. Poses a threat to human health;
 - iii. Causes damage to the environment;
 - iv. Poses a threat to the environment; or
 - v. Violates a daily maximum effluent limitation for a toxic pollutant listed in N.J.A.C. 7:14A-4 Appendix A;
 2. Any discharge of any toxic or hazardous pollutant listed in N.J.A.C. 7:14A-4 Appendix A, which is not covered under a permit;
 3. Any upset or an unanticipated bypass not otherwise covered in (a)1 or 2

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above; or

4. Any anticipated bypass.
- (b) Any permittee discharging pollutants under the conditions identified in (a) above shall comply with the reporting requirements in this section. Any permittee with a discharge not otherwise covered in (a) above shall comply with the reporting requirements relating to that type of discharge as listed below.
 - (c) For the situations listed in (a)1i through iv and 2, above, the permittee shall communicate the information in (c)1 through 3 below by telephone to the DEP Hotline at 1-877-927-6337 or 1-877-WARN-DEP (and to the receiving DTW, if applicable) within two hours of the commencement of the discharge or of the permittee's becoming aware of the discharge. Any revision to this information for situations listed in (a)1i through iv and 2 above shall be reported to the DEP Hotline within 24 hours after the permittee's becoming aware of the need to revise the information.
 1. A description of the discharge, including the time of the discharge, the location of discharge, the volume of the discharge, the concentration of pollutants discharged, and the receiving water of the discharge;
 2. Steps being taken to determine the cause of the permit noncompliance; and
 3. Steps being taken to reduce, remediate, and eliminate the noncomplying discharge and any damage to the environment, and the anticipated time frame to initiate and complete the steps to be taken.
 - (d) For the situations listed in (a)1v and 3 above, the permittee shall communicate the following information by telephone to the DEP Hotline at 1-877-927-6337 or 1-877-WARN-DEP within 24 hours after the commencement of the discharge or of the permittee's becoming aware of the discharge:
 1. A description of the discharge, including the time of the discharge, the location of discharge, the volume of the discharge, the concentration of pollutants discharged, and the receiving water of the discharge;
 2. Steps being taken to determine the cause of the permit noncompliance;
 3. Steps being taken to reduce, remediate, and eliminate the noncomplying discharge and any damage to the environment, and the anticipated time frame to initiate and complete the steps to be taken;
 4. The duration of the discharge, including the dates and times of the commencement and, for an unanticipated bypass, the dates and times of

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the end or anticipated end of the discharge, and if the discharge has not been corrected, the anticipated time when the permittee will correct the situation and return the discharge to compliance;

5. The cause of the noncompliance;
 6. Steps being taken to reduce, eliminate, and prevent reoccurrence of the noncomplying discharge;
 7. An estimate of the threat to human health or the environment posed by the discharge;
 8. The measures the permittee has taken or is taking to remediate the problem and any damage or injury to human health or the environment, and to avoid a repetition of the problem.
- (e) For the situations identified in (a)1 through 3 above, a written submission containing the information listed in (d) above shall be submitted to the Department, if the permittee had not previously submitted the information. The written submission shall be sent to the person identified in (h) below.
1. The permittee shall ensure that the written submission required pursuant to this subsection is submitted to the Department within five days of the commencement of the discharge or of the permittee becoming aware of the discharge.
 2. If the permittee becomes aware that it has failed to submit any relevant facts or submitted incorrect information required in (c) or (d) above, the permittee shall immediately submit such facts or information to the Department.
- (f) For the situations identified in (a)3 above, the permittee shall ensure that the person identified in (h) below receives the information listed at (f)4 below as part of the written submission required pursuant to (e) above, if not previously submitted, as follows:
1. For an unanticipated bypass, the information listed at (f)4i through ii and iv through ix below.
 2. For an upset, the information listed at (f)4i and iii through vi below as applicable, is submitted to the Department, within the five-day period.
 3. If the permittee becomes aware that it has failed to submit any relevant facts or has submitted incorrect information pursuant to (d) above, the permittee shall immediately submit such facts or information to the Department.
 4. The following information shall be submitted as required under this

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subsection:

- i. All properly signed, contemporaneous operating logs, or other relevant evidence, on the circumstances of the noncompliance;
- ii. For an unanticipated bypass, the reasons that the unanticipated bypass occurred, including the circumstances leading to the unanticipated bypass;
- iii. For an upset, the reasons that the upset occurred, including the cause of the upset and the identity of the person causing the upset , as necessary, except that, in the case of a treatment works, the local agency may certify that despite a good faith effort it was unable to identify the cause of the upset or the person causing the upset;
- iv. Evidence that the permittee was properly operating the facility at the time;
- v. Evidence that the permittee submitted notice of the unanticipated bypass as required pursuant to (a)(3) above, or, in the case of an upset resulting from the performance by the permittee of maintenance operations, the permittee provided prior notice and received prior written approval from the Department, including the name, title, address and telephone number of the individual who satisfied this requirement, the date and specific time the individual notified the Department for the permittee, the specific method that the individual used to notify the Department, and the name and title of the individual within the Department to whom the permittee gave such notice;
- vi. Evidence that the permittee complied with all remedial measures the Department required;
- vii. For an unanticipated bypass, the permittee's rationale for and all supporting documentation that the bypass was unavoidable to prevent loss of life, personal injury, or severe property damage, including the name, title, address and telephone number of the individual that made the determination for the permittee, the data and information upon which that individual made the determination and any other information the Department requests;
- viii. For an unanticipated bypass, evidence that there was no feasible alternative to the unanticipated bypass, including but not limited to the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of downtime; and
- ix. For an unanticipated bypass, evidence that the unanticipated bypass did not occur during normal periods of equipment downtime or

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preventive maintenance when back-up equipment should have been installed to avoid the unanticipated bypass.

- (g) For the situations identified in (a) above, the permittee shall submit the information below to the person identified in (h) below at least 10 days, if possible, prior to the date of the anticipated bypass.
 - 1. The exact dates and times of the anticipated commencement and the end of the anticipated bypass;
 - 2. The permittee's rationale as to why the anticipated bypass is necessary;
 - 3. A statement certifying that the permittee will properly operate the facility at the time of the anticipated bypass;
 - 4. A statement certifying that the anticipated bypass is unavoidable to prevent loss of life, personal injury, or severe property damage, including the name, title, address and telephone number of the individual that made this determination for the permittee, the data and information upon which that individual made the determination, and any other information the Department requests;
 - 5. A statement certifying that there is no feasible alternative to the anticipated bypass, including but not limited to the use of auxiliary treatment facilities retention of untreated wastes, or maintenance during normal periods of equipment downtime; and
 - 6. A statement certifying that the anticipated bypass will not occur during normal periods of equipment downtime or preventive maintenance when backup equipment can be installed to avoid the anticipated bypass.
- (h) The permittee shall submit all written notifications and/or reports required pursuant to this section to:

Administrator of Water Compliance and Enforcement Element
New Jersey Department of Environmental Protection
401 East State Street, 4th Floor East
PO Box 422
Trenton, New Jersey 08625-0422
- (i) For a serious violation, as defined in N.J.A.C. 7:14A-1.2, a person shall, within 30 days of the violation, submit a written report to the person listed in (h) above or the appropriate control authority. The report shall include the following:
 - 1. All the information required in (d) above, if not already submitted; and
 - 2. A written statement that:

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- i. Indicates the person understands the civil and administrative penalties required to be assessed for serious violations; and
 - ii. Explains the nature of the serious violation
- (j) The permittee shall report all instances of noncompliance not reported under this section at the time DMRs are regularly submitted. The reports shall contain the information required pursuant to (d) above.

7:14A-6.11 AFFIRMATIVE DEFENSES

Permittees may request an affirmative defense for effluent violations resulting from an upset, bypass, or laboratory error in accordance with the procedures at N.J.A.C. 7:14-8.3(i).

7:14A-6.12 OPERATION, MAINTENANCE, AND EMERGENCY CONDITIONS.

- (a) A permittee shall, at all times, maintain in good working order and operate the treatment works and facilities which are installed or used by the permittee to achieve compliance with the terms and conditions of the discharge permit. Proper operation and maintenance, includes, at a minimum:
 - 1. Effective performance based upon treatment levels for which the treatment works was designed;
 - 2. Adequate funding;
 - 3. Effective management;
 - 4. Adequate operator staffing and training;
 - 5. Regularly scheduled inspection and maintenance programs; and
 - 6. Adequate laboratory and process controls including appropriate quality assurance procedures as described in 40 CFR Part 136 and applicable State laws and rules.
- (b) Any permittee who operates a treatment works shall satisfy the licensing requirements of the "Water Supply and Wastewater Operators Licensing Act," N.J.S.A. 58:11-64 et seq., and promulgated pursuant thereto. This subsection requires the operation of back-up or auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of the NJPDES permit or where required by applicable law or regulation.
- (c) All permittees shall submit written verification to the Department that an operation and maintenance manual for the treatment works, including related appurtenances and collection system, has been or will be completed by the effective date or a compliance date included in a new or renewed NJPDES

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permit issued subsequent to May 5, 1997. A permittee does not need to submit the operation and maintenance manual to the Department, unless specifically directed to do so. When the Department directs a permittee to submit the operation and maintenance manual, the Department shall state the reasons for requiring the submittal in a letter requesting the submittal. In the case of a NJPDES permit for stormwater discharges or separate storm sewers which expressly exempts permittees from this provision, the exemption shall apply only to the discharge authorized by the permit. Any affected permittee shall comply with the following operation and maintenance manual requirements:

1. The operation and maintenance manual shall be made available for inspection upon request by an authorized representative of the Department.
 2. The operation and maintenance manual shall be amended whenever there is a change in the treatment works design, construction, operations or maintenance which substantially changes the treatment works operations and maintenance procedures.
 3. An operation and maintenance manual shall describe, at a minimum, the following:
 - i. Operator and staff responsibilities;
 - ii. Staff guidance for emergency situations;
 - iii. Identification of NJPDES permit requirements and the obligation to meet these requirements;
 - iv. Operating procedures including a detailed description of each major treatment unit/process with relationship to related units, safe operating procedure for normal operation, including common operating problems, safe operating procedures for operating during emergency conditions, and any fail-safe features;
 - v. A program of regularly scheduled inspection and maintenance; and
 - vi. An emergency plan in accordance with (d) below.
- (d) An emergency plan shall be included as part of the operation and maintenance manual, except for those operations issued permits under N.J.A.C. 7:14A-20.
1. When a person has prepared an emergency plan required by regulations other than this chapter, such plans or plan and any amendments necessary to meet the requirements of this section will satisfy the requirements of this section provided the plan is labeled to identify the requirements listed in this section.

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2. An emergency plan shall be amended whenever:
 - i. There is a modification, including expansion, of the treatment works;
or
 - ii. Any other conditions related to the plan have changed.
3. The emergency plan shall be designed to ensure effective operation of the treatment works under emergency conditions, and shall consist, at a minimum, of the following elements:
 - i. A vulnerability analysis which shall estimate the degree to which the treatment works would be adversely affected by each type of emergency situation which could reasonably be expected to occur, including but not limited to those emergencies caused by natural disaster, civil disorder, strike, sabotage, faulty maintenance, negligent operation or accident;
 - ii. The vulnerability analysis shall include, but is not limited to, an estimate of the effects of such an emergency upon the following:
 - (1) Power supply;
 - (2) Communication;
 - (3) Equipment;
 - (4) Supplies;
 - (5) Personnel;
 - (6) Security; and
 - (7) Emergency procedures to be followed.
 - iii. An evaluation of the possible adverse effects on public health and the environment due to such an emergency; and
 - iv. An emergency operation plan for ensuring, to the maximum extent possible, uninterrupted treatment works operation and a manual of procedures for the implementation of such plan, including procedures for the notification of any appropriate regulatory agency, affected water supply purveyors, and any other municipal authority or agency. The plan and manual shall address each of the emergency situations described in the vulnerability analysis.
4. The Department shall not individually review and approve an emergency plan as part of the permit issuance process. The Department's decision not

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to review and approve an emergency plan shall not exempt a person from liability for violations arising from an emergency situation. A person shall take all necessary actions to mitigate the damage to the waters of the State arising from an emergency situation. Such actions shall not be limited by the emergency operating plan and the operation and maintenance manual.

5. Failure to have on file any part of the operation and maintenance manual in compliance with (c) above and failure to implement the emergency plan pursuant to this subsection shall each constitute a violation of this chapter.
 6. In emergency situations, a permittee shall implement the requirements of the emergency plan to the fullest extent possible. In addition, any conditions of the emergency plan that the permittee can implement prior to an emergency situation to reduce the potential for an emergency situation, shall be implemented.
- (e) A municipality or sewerage authority who is not a permittee (for example, does not have a direct surface or groundwater discharge) but who owns and operates a treatment works used only for the collection or transportation of domestic sewage is not required to prepare an operations and maintenance manual. However, the municipality or sewerage authority shall be responsible for the proper operation and maintenance of that treatment works. The criteria for proper operations and maintenance and an emergency plan pursuant to (a) and (d) above, may be used as a guideline and implemented as applicable.

7:14A-6.13 GENERAL PERMITS.

- (a) The Department shall issue a general permit to authorize a category of surface water, ground water, or indirect discharges, residual use or disposal practices, or facilities within a geographic area, described in (b) below, except those otherwise eligible for authorization but which are authorized pursuant to individual permits or other general permits. The area shall correspond to existing geographic or political boundaries, such as:
1. Designated planning areas under Sections 208 and 303 of the Federal Act and Section 5 of the "New Jersey Water Quality Planning Act", N.J.S.A. 58:11A-1 et seq.;
 2. Sewer districts or sewerage agencies;
 3. City, county, or State political boundaries;
 4. State highway systems;
 5. Standard metropolitan statistical areas as defined by the Office of Management and Budget;

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6. Urbanized areas as designated by the Bureau of Census according to criteria in 39 FR 15202 (May 1, 1974); or
 7. Any other appropriate division or combination of boundaries.
- (b) A general permit may be written to regulate within the area described in (a) above, either:
1. Stormwater discharges;
 2. Non-contact cooling water discharges;
 3. Combined sewer overflows; or
 4. A category of discharges other than those listed in (b)1 through 3 above, if they all:
 - i. Involve the same or substantially similar types of operations;
 - ii. Discharge the same type of wastes or engage in similar residual use or disposal practices;
 - iii. Require the same or similar effluent limitations, operating conditions, or standards for residual use or disposal;
 - iv. Require the same or similar monitoring; and
 - v. In the opinion of the Department, are more appropriately controlled under a general permit than under individual permits.
- (c) General permits may be issued, modified, revoked and reissued, suspended, or revoked in accordance with applicable requirements of N.J.A.C. 7:14A-15, 16 and 17. The Department shall publish in the New Jersey Register a notice of administrative change revising the list of general permits in the table below to reflect any of these general permit actions. The list in this table is for informational purposes only. The Department advises prospective applicants to obtain a copy of the most recent general permit list from the Department's Division of Water Quality at PO Box 029, Trenton, New Jersey 08625, or from the Division's website (<http://www.state.nj.us/dep/dwq>). A copy of any general permit on the list may be obtained from the same address.

<u>NJPDES Permit No.</u>	<u>Category</u>	<u>Name of General Permit</u>	<u>Discharge Type¹</u>	<u>Year Issued</u>
NJ0108308	I1	Stormwater Basins at Sanitary Landfills	DGW	2001
NJ0108642	I2	Filter Backwash Water from Potable Water Treatment Plants	DGW	2003

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NJ0130281	T1	Existing Sanitary Septic Systems	DGW	2003
NJ0142051	LSI	Lined Surface Impoundment	DGW	2004
NJ0138631	R8	Concentrated Animal Feeding Operation (CAFO)	DGW/DSW	2003
NJ0107671	SM	Scrap Metal Stormwater	DGW/DSW	1999
NJ0088315	5G2	Basic Industrial Stormwater	DGW/DSW	2002
NJ0141852	R9	Tier A Municipal Stormwater	DGW/DSW	2004
NJ0141861	R10	Tier B Municipal Stormwater	DGW/DSW	2004
NJ0141879	R11	Public Complex Stormwater	DGW/DSW	2004
NJ0141887	R12	Highway Agency Stormwater	DGW/DSW	2004
NJ0088323	5G3	Construction Activity Stormwater	DSW	2002, modified in 2004
NJ0108456	CPM	Concrete Products Manufacturing Stormwater	DGW/DSW	2003
NJ0134791	R5	Newark Airport Complex Stormwater	DSW	2000
NJ0132721	R4	Hot Mix Asphalt Producers	DGW/DSW	2004
NJ0070203	CG	Non-contact Cooling Water	DSW	2000
NJ0102709	B4B	Groundwater Petroleum Product Clean-up	DSW	2003
NJ0105023	CSO	Combined Sewer Overflow	DSW	2000
NJ0128589	B6	Swimming Pool Discharges	DSW	1998
NJ0132993	BG	Hydrostatic Test Water	DSW	1999
NJ0134511	B7	Construction Dewatering	DSW	1999
NJ0105767	EG	Land Application Food Processing Residuals	RES	2003
NJ0132519	ZG	Residuals Transfer Facilities	RES	1999
NJ0132501	4G	Residuals - Reed Beds	RES	2002

1 Acronyms identifying "Discharge Type" have the following meanings:

DGW	Discharge to Groundwater
DSW	Discharge to Surface Water
RES	Residual Use or Disposal

(d) An authorization under a general permit shall be obtained as follows:

1. Except as provided in (d)7 and 8 below, persons seeking authorization under a general permit shall submit to the Department a written request for authorization. A person who fails to submit a request for authorization in accordance with the terms of the permit is not authorized to discharge under the terms of the general permit unless:
 - i. The general permit, in accordance with (d)7 below, contains a provision that a request for authorization is not required; or
 - ii. The Department notifies a person that the discharge is authorized by a

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general permit in accordance with (d)8 below.

2. The contents of the request for authorization shall be specified in the general permit and shall require the submission of information necessary for adequate program implementation, including, at a minimum, the legal name and address of the owner and operating entity, the facility name and address, type of facility or discharges, the receiving surface or ground water(s) or DTW, and the certification required under (d)3 below. Unless the general permit specifies otherwise, the request for authorization shall include all of the forms, information, signatures, and certification(s) that this chapter requires to be included in an application for a NJPDES permit. The request for authorization shall also include any other certification specified in the general permit.
3. In addition to the information required under (d)2 above, the request for authorization shall include, when specified in the general permit, a certification that arrangements have been made for publication, in a daily or weekly newspaper within the area affected by the facility, of a notice which states that a request for authorization under a general permit has been submitted pursuant to N.J.A.C. 7:14A-6.13(d). This notice shall also identify the general permit under which authorization is sought, the legal name and address of the owner and operating entity or, the facility name and address, type of facility or discharges, and the receiving surface or ground water(s) or DTW. Each general permit shall set forth the form of notice appropriate to that general permit.
4. General permits shall specify the deadlines for submitting requests for authorization and the date(s) when a person is authorized to discharge under the permit.
5. General permits shall specify whether a person that has submitted a complete and timely request for authorization in accordance with the general permit, and that is eligible for authorization under the permit, is authorized to discharge in accordance with the permit either upon:
 - i. Receipt of the request for authorization by the Department, after a waiting period specified in the general permit, where applicable;
 - ii. On a date specified in the general permit; or
 - iii. Upon the person's receipt of notification of authorization by the Department.
6. Authorization may be suspended, revoked, or denied in accordance with (j) through (m) below. The Department shall publish in the DEP Bulletin, or other similar DEP publication, a quarterly report of each authorization issued under a general permit.

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7. Discharges from DTWs, combined sewer overflows, municipal separate storm sewer systems, primary industrial facilities, and stormwater discharges associated with industrial activity shall submit a request for authorization to the Department. Other discharges may, at the discretion of the Department, be authorized under a general permit without submission of a request for authorization where the Department finds that a request for authorization requirement is inappropriate. The Department shall provide in the public notice of the general permit the reasons for not requiring a request for authorization. In making such a finding, the Department shall consider:
 - i. The type of discharges;
 - ii. The expected nature of the discharges;
 - iii. The potential for toxic and conventional pollutants in the discharges;
 - iv. The expected volume of the discharges;
 - v. Other means of identifying discharges authorized by the permit; and
 - vi. The estimated number of discharges to be authorized by the permit.
8. The Department may notify a person that the discharge is authorized by a general permit, even if the person has not submitted a request for authorization. A person so notified may nonetheless request an individual permit under (i) below.
9. A general permit may provide for automatic renewal of authorization when that general permit is reissued, provided the discharge authorized under the general permit continues to be eligible. If such a general permit requires a request for authorization under (d)1 above, the most recently submitted request for authorization is also a timely and complete request for authorization under the reissued permit (for any permittee who had authorization under the permit immediately prior to the effective date of the reissued permit), and the Department shall issue a notice of renewed authorization to the permittee.
 - i. If the permittee is aware that any information in that most recently submitted request for authorization is no longer true, accurate, and/or complete, the permittee shall provide the correct information to the Department within 90 days after that effective date, if the permittee has not done so already.
 - ii. A permittee whose authorization is renewed under this paragraph may request to be excluded from the reissued general permit in accordance with (g) below, and may also request a stay of the application to that

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permittee of any conditions of the reissued permit in accordance with N.J.A.C. 7:14A-17.6.

- (e) The Department may require any permittee authorized by a general permit to apply for and obtain an individual NJPDES permit or seek and obtain authorization under another general permit. Also, any person may, in accordance with the procedures set forth at (l) below, petition the Department to take action under this subsection. An individual NJPDES permit or another general permit may be required when:
 - 1. There is evidence that the permittee may be a significant contributor of pollutants. In making this determination, the Department may consider the location of the discharge, facility, or activity, the size of the discharge or activity, the quantity and nature of pollutants, the quality of the receiving waters, and other relevant factors;
 - 2. The permittee is not in compliance with the conditions of the general permit;
 - 3. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants;
 - 4. Effluent limitation guidelines are promulgated for the activity authorized by the general permit;
 - 5. A Water Quality Management Plan containing different requirements applicable to the permittee is adopted;
 - 6. Circumstances have changed since the time of authorization or the request for authorization such that the discharge is no longer appropriately controlled under the general permit, or either a temporary or permanent reduction or elimination of the authorized activity is necessary;
 - 7. The Department acquires new information indicating that the permittee otherwise is not eligible for the general permit according to terms specified in the general permit; or
 - 8. New standards for residual use or disposal are promulgated for the residual use and disposal practice covered by the general permit.
- (f) To require any permittee authorized by a general permit to apply for an individual NJPDES permit or seek authorization under another general permit as provided in (e) above, the Department shall notify the permittee in writing, as follows:
 - 1. The notice shall include:
 - i. A brief statement of the reasons for the determination that an

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- individual permit or authorization under a different general permit is necessary;
 - ii. An application form or the applicable request for authorization form;
 - iii. A statement setting a time for the permittee to file the application or the applicable request for authorization; and
 - iv. A statement that on the effective date of the individual NJPDES permit or on the date of the permittee's authorization under another general permit, the individual permittee's authorization under the general permit shall automatically terminate.
2. The Department may grant additional time for application for an individual permit or request for authorization, upon request by the permittee. If a permittee fails to submit in a timely manner an application form or request for authorization form required by the Department under this subsection, the permittee's authorization under the general permit will be automatically revoked at the end of the day specified for submitting the application form or request for authorization form.
- (g) Any permittee authorized by a general permit may request to be excluded from authorization under the general permit by applying for an individual NJPDES permit or for another general permit. The permittee shall submit an application under N.J.A.C. 7:14A-4.1, or a request for authorization for the other general permit (if required under (d) above), with reasons supporting the request. A request for an individual permit shall be processed under N.J.A.C. 7:14A-15, 16, and 17. A request for another general permit shall be processed under this section and the terms of the other general permit. The request shall be granted by the issuing of any individual permit, or by the issuing of authorization under the other general permit, if the reasons cited by the permittee are determined to be adequate to support the request.
- (h) When a permittee authorized by a general NJPDES permit is issued an individual NJPDES permit for the authorized discharge, or obtains authorization for that discharge under another general permit, the permittee's authorization under the general permit is automatically revoked on the effective date of the individual permit or on the date of the permittee's authorization under another general permit, whichever the case may be. When an individual NJPDES permit is denied to a permittee authorized by a general permit, or the permittee is denied authorization under another general permit, the permittee's authorization under the general permit is automatically revoked on the date of such denial, unless otherwise specified by the Department.
- (i) If a permittee's discharge is excluded from a general permit solely because that discharge already is authorized by an individual permit or authorization under another general permit, the permittee may request that the individual permit or

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authorization be revoked or modified, as appropriate, and that the discharge be authorized by a general permit identified in that request. The permittee shall submit a request for revocation or modification, with reasons supporting the request, to the Department. The permittee shall submit any request for revocation or modification of an individual permit under N.J.A.C. 7:14A-16, and that request shall be processed under N.J.A.C. 7:14A-15, 16 and 17. If the Department revokes or modifies the individual permit or authorization, and if authorization under a general permit is issued, after the permittee submits any request for authorization required under (d) above, the permittee shall be authorized under the general permit. In reviewing such requests, the Department may consider:

1. The location of the discharge;
 2. The size of the discharge or activity;
 3. The quantity and nature of pollutants reaching the surface or ground waters of the State;
 4. The quality of the receiving waters;
 5. Antibacksliding requirements in N.J.A.C. 7:14A-13.19, if applicable; and
 6. Any other factors the Department considers relevant to determining whether the discharge is best regulated under one permit or the other.
- (j) The Department may suspend or revoke a permittee's authorization under a general permit for causes specified in N.J.A.C. 7:14A-16.6. Such suspension or revocation of authorization is a type of permit suspension or revocation under N.J.A.C. 7:14A-16.6. A requirement pursuant to (f) above that a permittee apply for an individual permit or seek authorization under another general permit is not a revocation within the meaning of N.J.A.C. 7:14A-16.6, even if the permittee's authorization is eventually revoked in favor of an individual permit or another general permit, or is automatically revoked under (f)2 above, as a result of the permittee's failure to submit in a timely manner an application form or request for authorization form.
- (k) If the Department directs the permittee to apply for an individual permit or seek authorization under another general permit, the permittee may ask the Department to reconsider its decision by sending a letter to the Commissioner within 30 days of the issuance of the initial decision. The letter shall be sent to:

Office of Legal Affairs
Department of Environmental Protection
401 East State Street
CN-402
Trenton, NJ 08625

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Both the envelope and the letter shall clearly indicate that it is a "REQUEST FOR RECONSIDERATION OF GENERAL PERMIT DETERMINATION." The Commissioner may act on the request with 60 days; if the Commissioner fails to take any action the request shall be deemed denied. In no event shall an order from the Department directing a permittee to apply for an individual permit or seek authorization under another general permit (or a denial of a request to reconsider that order) be deemed final agency action.

- (l) The following requirements apply to petitions filed under (e) above:
 1. Any petition shall state clearly and concisely:
 - i. The name, address, and telephone number of the petitioner;
 - ii. The petitioner's interest in the petition (including any organizational affiliations and any economic interest);
 - iii. The name and address of the permittee whose authorization could be affected by the petition;
 - iv. The number of the permit under which that permittee is authorized; and
 - v. The reasons why the petition should be granted (including any citations to any relevant legal authority).
 2. The petitioner shall serve the petition on both the Department and the permittees whose authorization could be affected by the petition.
 3. The permittees whose authorization could be affected shall have 30 days from the date the petition was served to respond to the petition. Any response shall be served on both the Department and the petitioner. The Department thereafter may in its discretion seek further information relevant to the petition.
 4. The Department shall determine whether to grant the petition based upon materials submitted in accordance with this subsection and based upon the criteria set forth in (e) above. The Department shall notify both the petitioner and the permittees whose authorization is affected by the petition of the Department's determination.
 5. Either party may ask the Department to reconsider its decision regarding a petition by sending a letter to the Commissioner within 30 days of the issuance of the initial decision. The letter shall be sent to the Department's Office of Legal Affairs, at the address listed above, and both the envelope and the letter shall clearly indicate that it is a "REQUEST FOR RECONSIDERATION OF PETITION DETERMINATION." The

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Commissioner may act on the request within 60 days; if the Commissioner fails to take any action the request shall be deemed denied. It shall be considered final agency action where the ultimate outcome of the agency proceedings is that the petition is denied by the Commissioner.

(m) The following requirements apply to denial of requests for authorization:

1. The Department shall deny a request for authorization if it determines that the subject discharge is not eligible for the general permit for which the person has requested authorization.
 2. The Department may deny a request for authorization if it determines that the discharge is not appropriately regulated under the relevant general permit because of:
 - i. Its location;
 - ii. The size of the discharge or activity;
 - iii. The quantity and nature of pollutants reaching the waters of the State;
 - iv. The quality of the receiving waters; or
 - v. Other relevant factors.
 3. If the Department denies a request for authorization, it shall notify the person of that denial in writing. A person whose request for authorization has been denied may ask the Department to reconsider its decision by sending a letter to the Commissioner within 30 days of the issuance of the initial denial. The letter shall be sent to the Department's Office of Legal Affairs, at the address listed above, and both the envelope and the letter shall clearly indicate that it is a "REQUEST FOR RECONSIDERATION OF GENERAL PERMIT DETERMINATION." The Commissioner may act on the request within 60 days; if the Commissioner fails to take any action the request shall be deemed denied. In no event shall a denial of a request for authorization, or a request to reconsider that denial, be deemed final agency action.
- (n) An authorization may be transferred to a new permittee in accordance with the requirements for an automatic transfer at N.J.A.C. 7:14A-16.2(d).
- (o) With the consent of the permittee, the Department shall revoke an authorization to discharge under a general permit without following the procedures set forth in N.J.A.C. 7:14A-15.6, if the discharge has ceased.

7:14A-6.14 EMERGENCY PERMITS

- (a) Under the specified circumstances listed in (b) below, the Department may

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issue an emergency permit, except for a DSW, to allow the discharge of pollutants, where such discharge is unpermitted or the discharge consists of pollutants not covered by an effective permit.

(b) The Department may issue an emergency permit to allow the activities listed in (a) above only after making a finding that:

1. An imminent and substantial endangerment to human health or the environment will result unless an emergency permit is granted;
2. A substantial and irretrievable loss of oil or gas resources will occur unless an emergency permit is granted to a Class II well under UIC program; and
 - i. Timely application for a regular permit could not practicably have been made; and
 - ii. The injection will not result in the movement of fluids into underground sources of drinking water; or
3. A substantial delay in production of oil or gas resources will occur unless an emergency permit is granted to a new Class II well under the UIC program, and the authorization will not result in the movement of fluids into an underground source of drinking water.

(c) The requirements for issuance of any emergency permit are as follows:

1. The Department may issue an emergency permit by either oral or written permission from the Director. Oral permission shall be followed within five days by a written emergency permit.
2. The Department may issue an emergency permit for any duration not to exceed 180 days, except:
 - i. That underground injections temporarily permitted in order to prevent an imminent and substantial endangerment to the health of persons shall be for a term no longer than required to prevent the hazard, or 90 days, whichever is less.
 - ii. That land application of municipal or nonhazardous sludge temporarily permitted in order to prevent an imminent and substantial endangerment to public health shall be for a term no longer than that required to prevent the hazard, or 180 days, whichever is less.
 - iii. That storage of municipal or non-hazardous sludge temporarily permitted in order to prevent an imminent and substantial endangerment to public health shall be for a term no longer than that required to prevent the hazard, or one year, whichever is less.

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3. The Department shall clearly specify in the emergency permit the following:
 - i. The wastes to be received and disposed of under the emergency permit;
 - ii. The manner and location of the treatment, storage, disposal, or injection of wastes;
 - iii. The rate, quantity, and quality of pollutants to be discharged; and
 - iv. The monitoring and applicable reporting requirements which is required.
4. The Department may immediately suspend or revoke the emergency permit at any time following a determination that such action is appropriate to protect human health and the environment.
5. The Department shall publish, along with the emergency permit, a public notice of the emergency permit pursuant to N.J.A.C. 7:14A-15.10, including:
 - i. The name and address of the office granting the emergency authorization;
 - ii. The name and location of the permitted facility;
 - iii. A brief description of the wastes involved;
 - iv. A brief description of the action authorized and reasons for authorizing it; and
 - v. The duration of the emergency permit.
6. The Department shall issue an emergency permit regarding injections only after a complete NJPDES permit application has been submitted. The emergency permit shall only be effective until final action is taken on the NJPDES permit application.
7. The Department shall condition the emergency permit regarding injection under the UIC program in any manner that the Department determines is necessary to ensure that the injection shall not result in the movement of fluids into an underground source of drinking water.
8. The Department shall incorporate in the emergency permit, to the extent possible and not inconsistent with the emergency situation, all applicable requirements of this chapter and 40 CFR Parts 264 and 266.

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7:14A-6.15 RESIDUALS MANAGEMENT

- (a) Where applicable, the permittee shall comply with land-based sludge management criteria and shall conform with the requirements for the management of residuals and grit and screenings under:
 - 1. Section 405 of the Federal Act governing the disposal of sludge from treatment works treating domestic sewage;
 - 2. The Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., and the Solid Waste Management Rules, N.J.A.C. 7:26;
 - 3. The Sludge Quality Assurance Regulations, N.J.A.C. 7:14C;
 - 4. The Statewide Sludge Management Plan promulgated pursuant to the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq.; and
 - 5. The provisions concerning disposal of sewage sludge and septage in sanitary landfills set forth at N.J.S.A. 13:1E-42 and the Statewide Sludge Management Plan.
- (b) The NJPDES permit shall specify standards for residual use or disposal, under Section 405(d) of the Federal Act and N.J.A.C. 7:14A-20, unless those standards have been included in a permit issued under the appropriate provisions of subtitle C of the Solid Waste Disposal Act, Part C of the Safe Drinking Water Act, the Marine Protection, Research, and Sanctuaries Act of 1972, or the Clean Air Act, or under State permit programs approved by the Department.
- (c) When there are no applicable standards for residual use or disposal, the permit may include requirements developed on a case-by-case basis to protect public health and the environment from any adverse effects which may occur from toxic pollutants in residual. If any applicable standard for residual use or disposal is promulgated under section 405(d) of the Federal Act and Sections 4 and 6 of the State Act and that standard is more stringent than any limitation on the pollutant or practice in the permit, the Department may initiate proceedings under these rules to modify or revoke and reissue the permit to conform to the standard for residual use or disposal.

7:14A-6.16 PRETREATMENT REQUIREMENTS FOR LOCAL AGENCIES.

- (a) Pretreatment program requirements for local agencies included, where applicable, in a NJPDES permit shall meet the requirements of 40 CFR Part 403 and N.J.A.C. 7:14A-19. In addition, a permit for a delegated local agency shall include effluent limits for all pollutants listed under the USEPA Categorical Pretreatment Standards, adopted pursuant to 33 U.S.C. §1317, and

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such other pollutants for which effluent limits have been established for a permittee discharging into the municipal treatment works of the delegated local agency, except those categorical or other pollutants that the delegated local agency demonstrates to the Department are not discharged above detectable levels by the local agency. The NJPDES permit may authorize the use by a delegated local agency of surrogate parameters in accordance to N.J.A.C. 7:14A-13.10, for categorical and other pollutants discharged from the local agency, except that if a surrogate parameter is exceeded, the permit shall include effluent limits for each categorical or other pollutant for which the surrogate parameter was used, for such period of time as may be specified in the permit.

- (b) Sewage sludge use or disposal practices shall be required as a condition of the permit to a local agency, to monitor and report results with a frequency dependent on the nature and effect of the sewage sludge use or disposal practice. This frequency of monitoring and reporting shall be specified in N.J.A.C. 7:14A-20, but in no case shall be less than once per year.

7:14A-6.17 ADJUSTMENT OF DSW LIMITATIONS FOR ALTERNATIVE DISPOSAL OF POLLUTANTS

- (a) When part of a discharger's process wastewater is not being directly discharged into surface waters of the State or contiguous zone because it is disposed into a well, into a DTW, or by land application thereby reducing the flow or level of pollutants being discharged into surface waters of the State, applicable effluent standards or limitations for the discharge in a NJPDES permit shall be adjusted to reflect the reduced raw waste resulting from such disposal.
- (b) Effluent limitations and standards in the permit shall be calculated by one of the following methods:
 - 1. If none of the waste from a particular process is discharged into waters of the State, and effluent limitation guidelines provide separate allocations for waste from that process, all allocations for the process shall be eliminated from calculation of permit effluent limitations or standards;
 - 2. In all cases other than those described in (b)1 above, effluent limitations shall be adjusted by multiplying the effluent limitation guidelines to the total waste stream by the amount of wastewater flow to be treated and discharged into surface waters of the State and dividing the result by the total wastewater flow. Effluent limitations and standards so calculated may be further adjusted under 40 CFR Part 125, Subpart D, to make them more stringent if discharges to wells, DTWs, or by land application change the character or treatability of the pollutants being discharged to receiving waters.
 - i. This method may be algebraically expressed as:

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(1) $P = E \times N/T$

(where: P is the permit effluent limitation,
E is the limitation derived by applying effluent
guidelines to the total waste stream,
N is the wastewater flow to be treated and
discharged to surface waters of the State, and
T is the total wastewater flow).

- (b) Subsection (a) above shall not apply to the extent that promulgated effluent limitation guidelines:
1. Control concentrations of pollutants discharged but not mass; or
 2. Specify a different specific technique for adjusting effluent limitations to account for well injection, land application, or disposal into DTWs.
- (c) Subsection (a) above does not alter a discharger's obligation to meet any more stringent requirements established under this chapter.